IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:07 CR 335

-vs-

RIGOBERTO GOMEZ-ARGUIJO,

MEMORANDUM OPINION AND ORDER

Defendant.

KATZ, J.

This matter is before the Court on the motion of the Defendant, appearing *pro se*, to correct his sentence. That motion is based on sentencing disparities created by the "arbitrary, fas-track system." The Government has filed a response in opposition to that motion. For the reasons which herein after follow, the Court lacks jurisdiction to reconsider the sentence of the Defendant and will deny the motion.

This Court's authority to correct or modify a sentence is based upon Federal Rule of Criminal Procedure 35. Subparagraph (a) permits a court to "correct a sentence that resulted from arithmetical, technical or other clear error." Such a motion must be filed within seven (7) days after imposition of sentence. Clearly, this motion is out of rule due, and thus the Court lacks jurisdiction.

Additionally, as pointed out by the Government in its opposition, statutory authority explicitly provides that a court may not modify a sentence unless particular criteria are met. Those criteria are set forth in 18 U.S.C. § 3582(c). One of those criteria is that it is upon motion of the Directory of the Bureau of Prisons; such is not the case here. Another is pursuant to Rule

35 as noted, and yet another is if the Defendant has been sentenced to a range subsequently lowered by the United Sentencing Commission; such is not the case here.

Since the Bureau of Prisons has not made motion, the Sentencing Commission has not lowered the sentencing range nor any other criteria exists granting the Court authority to reduce Defendant's sentence, this Court lacks authority/jurisdiction to reduce sentence and Defendant's motion is, therefore, denied.

IT IS SO ORDERED.

s/ *David A. Katz*
DAVID A. KATZ
U. S. DISTRICT JUDGE